

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON HUMAN SERVICES**

**Call to Order:** By **CHAIRMAN BILL THOMAS**, on February 2, 2001 at 3:00 P.M., in Room 172 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Bill Thomas, Chairman (R)  
Rep. Roy Brown, Vice Chairman (R)  
Rep. Trudi Schmidt, Vice Chairman (D)  
Rep. Tom Dell (D)  
Rep. John Esp (R)  
Rep. Tom Facey (D)  
Rep. Dennis Himmelberger (R)  
Rep. Larry Jent (D)  
  
Rep. Brad Newman (D)  
Rep. Mark Noennig (R)  
Rep. Holly Raser (D)  
Rep. Diane Rice (R)  
Rep. Rick Ripley (R)  
Rep. Clarice Schrumpf (R)  
Rep. Jim Shockley (R)  
Rep. James Whitaker (R)

**Members Excused:** Rep. Daniel Fuchs (R)

**Members Absent:** Rep. Michelle Lee (D)

**Staff Present:** David Niss, Legislative Branch  
Pati O'Reilly, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 395; 1/30/01  
Executive Action: HJ 9

#### **HEARING ON HB 395**

**Sponsor:** REP. BILL THOMAS, HD 93, Hobson

**Proponents:** Sen. Chris Christiaens, SD 23, Great Falls  
Dick Crofts, Commissioner of Higher Education

Mary McCue, Ex. Dir., Montana Dental Assn.  
Will Weaver, Dean, College of Technology, Great Falls  
Dustin Stewart, Assoc. Students of MSU, Bozeman &  
Great Falls, & the Assoc. Students of Montana Tech  
Mike Labriola, Ex. V.P., G.F. Chamber of Commerce  
Connie Jacques, Mt. Dental Hygienists Assn.  
Gayle Roset, D.D.S., Billings; Pres., Mt. Dental  
Assn.  
Jon Metropoulos, Mt. Dental Hygienists Assn.  
Steve Yeakel, Mt. Council for Maternal & Child Health  
April Keefe, dental assistant student & V.P. of  
Assoc. Students, G.F. College of Technology  
Joe Mazurek, City of Great Falls  
Vadine Rispens, dental assistant, Helena  
Deb Kottel, Cascade County Commissioners  
Janet Thomas, dental hygienist  
Mary Sheehy-Moe, MSU-GF College of Technology  
Jeanie Gabrean, dental hygienist, Helena  
Janet Lieberg, dental hygienist, Helena

**Opponents:** None

**Opening Statement by Sponsor:**

REP. BILL THOMAS, HD 93, Hobson, said that Montana, like the rest of the nation, will face a dental manpower shortage that will continue to worsen drastically in the next ten years. Montana, however, is different from the rest of the United States in that there is something we can do about it. We're the only state in the nation without a school of dental hygiene. Proponents who will testify today will address the services provided by dental hygienists, the meaning of the term "worsening dental manpower shortage," and the fiscal considerations of a school of dental hygiene. **EXHIBIT(huh27a01) EXHIBIT(huh27a02) EXHIBIT(huh27a03) EXHIBIT(huh27a04) {Tape : 1; Side : A; Approx. Time Counter : 0 - 10.5}**

**Proponents' Testimony:**

Sen. Chris Christiaens, SD 23, Great Falls, said that since 1994 he has worked with a group of states who are interested in health care reform. One of the biggest hopes in health care of states across the nation is that of good dental care. Oral health care is an area that has left great needs, particularly among low and moderate income folks, because they tend not to have good dental care and end up with problems that take them to emergency rooms, the highest cost places for persons to receive health care. Dental care in a sparsely-populated state like Montana becomes more critical as our

state's dentists age. Over half of Montana's dentists are age 45 or older. As they retire, we face a critical shortage. It is difficult to get someone to set up a dental practice in small eastern Montana communities. This bill and the occupation of dental hygiene is critical to the people of Montana and will get more critical as time goes on. We've been working for some time to get the money to put this program forward, and working with our Congressional delegation, have received the \$625,000 it will take to get the program set up and running through the accreditation period. There is no money needed from the legislature for the first year of this program. This program gives young people an opportunity to start at a good, decent-paying job. Dental hygienists start at between \$42,000 to \$50,000. If Montana has a good dental hygienist program, we will be able to assure that Montanans across the state will get the kind of dental care that they need.

**Dick Crofts, Commissioner of Higher Education,** supports the bill and said that the Montana University System has had plans for a dental hygiene program on hold for a decade due to the cost. Even with a sharp pencil approach to the program budget, when the program is fully implemented in the next biennium, about \$360,000 of general fund money will be needed to keep it going. He wants to be sure to be on record that this is an expensive program and will require some ongoing commitment from the state, beyond the normal funding for students. About \$1,900 for each full-time equivalent student will be received from the state, and tuition is about \$2,900 per student. Across the country, annual expenditures per student in these programs are around \$11,000 to \$12,000. As our population ages, the amount of needed dental care will increase, and it is wasteful and inefficient for some of that to be done by dentists as opposed to hygienists.

**Mary McCue, Ex. Dir., Montana Dental Assn.,** said that the association has been working on this ever since the hygiene school at Carroll College closed in 1989. In November of 1999, the Dept. of Public Health and Human Services convened a dental access summit in Montana. Its purpose was to improve rural health and access to dental care in Montana, and it involved dentists, hygienists, dental assistants, government officials, higher education, and other advocates. From this the Montana Dental Access Coalition was organized, and they produced the Montana Dental Action Plan and a legislative agenda. This bill is at the top of that agenda. One-fourth of the dentists in Montana are over age 55. A significant number of dentists will be retiring within the next decade and will have to be replaced. She often gets phone calls from dental students or dentists who are interested in coming to Montana to practice. One of their first questions is to ask about Montana's dental hygiene situation, because there is a shortage nationally, and she has to tell them that we have a shortage in Montana, particularly in the rural parts of the state, and we are the only

state with no hygiene school. We have to have a school in Montana to educate hygienists so dentists who are already practicing will be freed up to perform the work that only dentists can perform and to help attract new dentists to Montana. **EXHIBIT (huh27a05)**  
**EXHIBIT (huh27a06)**

**Will Weaver, Dean, College of Technology, Great Falls,** said that the MSU-Great Falls College of Technology has a long history of providing allied health programs, including a dental assisting program which they've offered for 32 years. In 1992, the Board of Regents had approved a dental hygiene program for the College of Technology, but they were unable to get funding. The \$625,000 that has already been secured from Congress to implement the program would be used to purchase and install the necessary equipment, curriculum development, hiring of a program coordinator, and the development of a self-study. It usually takes about a year to put together the self-study and have the evaluation team look at the facility and the curriculum. In addition to the school, the site could be used for continuing education activities for dental hygienists and dentists. In 1997, one-third of the Montana dentists surveyed reported that they were unable to fill the vacancy of a dental hygienist. Dental hygiene is in the top 30 of the fastest-growing occupations in the nation. In Montana, the pay for a hygienist is around \$25 an hour, and these people would be contributing back to our economy. The dental hygiene curriculum also incorporates tobacco education and prevention strategies. This is a clean industry that can improve the overall health care for Montana.

**Dustin Stewart, Associated Students of Mt. State University, Bozeman, Great Falls, and the Associated Students of Montana Tech,** said the students are in strong support of this bill.

**Mike Labriola, Exec. V.P., Great Falls Area Chamber of Commerce,** said that they support the bill because it is an important economic development measure, not only for Great Falls but also for the rest of Montana. **EXHIBIT (huh27a07)**

**Connie Jacques, Mt. Dental Hygienists' Assn.,** said that the association is in support of the program proposed in the bill, as is she personally. Dental hygiene is a profession of helping people, in addition to cleaning teeth and assisting dentists.

**Gayle Roset, D.D.S., Billings; Pres., Mt. Dental Assn.,** said the dentists of Montana are asking for the support and passage of this bill. It would have a far-reaching, positive impact on the oral health and the economy of our state. **{Tape : 1; Side : A; Approx. Time Counter : 2.9 - 30.6}**

**Jon Metropoulos, Mt. Dental Hygienists Assn. Lobbyist,** said he would be happy to gather any information needed by the committee in order to pass the bill.

**Steve Yeakel, Mt. Council for Maternal and Child Health,** said there are no turf battle involved here, but the coming together of several disciplines. There is no corner of the state in which dental access is not an issue. This is a top issue of the Dental Access Coalition and one of the top three issues for his council, and they urge support.

**Kay Unger, MEA-MFT,** said they strongly support the bill because it increases access of Montana students to a skilled and high-paying profession, and it enhances the efficiency with which existing resources will be able to provide enhanced dental care to the people of Montana.

**April Keefe, dental assistant student and V.P. of Assoc. Students, G.F. College of Technology,** said that the students support the dental hygiene program. At this time, they have over 150 persons on their mailing list who are interested in the program.

**Joe Mazurek, City of Great Falls,** urges support of the bill. As attorney general, he was involved in the tobacco litigation where there was a focus on the need for good prevention and public education programs. Montana is the second highest state in per capita usage of smokeless tobacco, and dental hygienists are instrumental in convincing people to stop using it. As a legislator, he carried legislation for the hygienists over the years, and he thinks it is good that the dental hygienists and the dentists are together on this bill, which speaks to the importance of the legislation. Montana used to have a program at Carroll College, and the result of that program's closure is evident here today in that dentists, hygienists and prevention advocates are saying that we really need this program back to serve the people of the state.

**Vadine Rispens, dental assistant, Helena,** said she would like to further her career, and it would be difficult to leave the state for the education since she is married and has children. She asks for support for those who would like to be hygienists.

**Deb Kottel, Cascade County Commissioners,** asked where else the committee could find one bill that is a great education bill, a needed health care bill, a bill that provides necessary economic development in the state, and a wonderful social policy bill. This bill allows families to support their homes on one income rather than having three part-time jobs.

**Janet Thomas, dental hygienist**, said that the profession of dental hygiene is a family-friendly profession, and is not only a woman's profession, but men are also hygienists. This is a two-year program, and she thinks that where we kind of lost with Carroll College was that they had a four-year program.

**Mary Sheehy-Moe, Assoc. Dean, MSU-Great Falls College of Technology**, said it is her job to develop the curriculum and the program, in this case for dental hygiene. Basic information about the program is on their web site at [www.msugf.edu](http://www.msugf.edu). The mission of the College of Technology is to prepare high-skilled work force for high-demand careers and to provide transferable course work throughout the Montana university system. This program is perhaps the best example of what a two-year college of technology can do in both areas.

**Jeanie Gabrean, dental hygienist, Helena**, supports the bill.

**Janet Lieberg, dental hygienist, Helena**, said that she has worked as a hygienist for 25 years, and it is a wonderful career. *{Tape : 1; Side : B; Approx. Time Counter : 0 - 9.5}*

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

**Rep. Himmelberger** said he had the information indicating that Montana's average pay for hygienists is \$25 per hour, and he asked the sponsor what the average national pay is. **Rep. Thomas** said he didn't know the exact figures, but he had a chart that said Montana is 15<sup>th</sup> from the top in average income. Alaska is the top with \$72,100, and Montana is \$52,100. **Rep. Himmelberger** asked if the sponsor was comfortable with Montana not getting into the situation we are experiencing with teachers, where we educate them and then they leave the state for better wages. **Rep. Thomas** said with one-fourth of Montana dentists actively seeking hygienists, that equates to 155 job openings. He doesn't think there would be any financial reason why they would want to leave Montana.

**Rep. Dell** asked **Mary McCue** why the Carroll College program had failed and if there was a concern about similar things happening with this proposed program. **Ms. McCue** said that happened before she was involved with the Dental Assn., but she understood that because it was a four-year program that was expensive to operate, they decided not to continue it. Dental hygiene programs are typically two to three-year programs. 75 percent of the programs in the

country are two-year degree programs. There is no need for a four-year degree to enter this profession.

**Rep. Noennig** asked **Commissioner Dick Crofts** about the budgetary aspects and whether the proposal had been included in the university budget plan and in the governor's plan, and if not, why not. **Mr. Croft** said the proposal was not in the university system's request and is not in the executive budget. Because of the cost of dental hygiene programs, they had decided to incorporate a dental hygiene opportunity in an out-of-state location using WICHE-WAMI Minnesota dentistry programs as a model, and had included money in their request for student assistance, which was funded by the executive. The money secured through the federal government for program start-up costs occurred after they had completed their budget decisions. This presented a different picture, so they decided it made more sense to pursue a program in the state. **Rep. Noennig** asked if there was money available that had been budgeted for the student assistance that could be used for this program. **Mr. Crofts** said the executive budget includes \$2 million for about half a dozen professional program needs and student financial aid programs. He tentatively had identified \$45,000 as money for student assistance for out-of-state dental hygiene programs. **Rep. Noennig** asked if this \$45,000 would be available for this program. **Mr. Croft** said he thought that was correct and that it probably could be transferred, but he isn't certain as it depends on what happens with HB 2.

**Rep. Schmidt** asked **Will Weaver** to briefly describe the program. He said the program is two years in length. There are approximately 15-19 credits of pre-requisites, including science and general education courses, which makes sure that students admitted to the program are academically prepared for it. These courses would not have to be taken at the College of Great Falls, but could be taken closer to a student's home or over the internet. There are 12 slots in the program, so it would be highly competitive. *{Tape : 1; Side : B; Approx. Time Counter : 10.6 - 23.1}*

**Closing by Sponsor:**

**Rep. Thomas** said that Montana faces a serious shortage of dentists as more dentists retire, and we are going into a catastrophic situation. This bill is one of the first things we can do to help. *{Tape : 1; Side : B; Approx. Time Counter : 23.2 - 25.5}*

**EXECUTIVE SESSION ON COMMITTEE BILL**

**Rep. Thomas** said this was the second phase of action on a proposed committee bill, and the committee would be hearing from **Paul Meyer**,

who requested the bill, and **Denzel Davis**, who is with Quality Assurance Division.

**Paul Meyer, Exec. Dir., Western Montana Mental Health Center**, referred to the letter previously sent to Rep. Shockley outlining the problem and proposing a committee bill. The Center, through its counsel, is suggesting three amendments to the section of statute dealing with recoupments by the Dept. of Public Health and Human Services. They result from the Center's experience in dealing with a prolonged audit situation over a seven-year period. These amendments would (1) eliminate a pre-hearing seizure of health care provider funds when the basis for that seizure is a statistical sampling audit by DPHHS; (2) require that all phases of a statistical sample audit be under the direct responsibility of a certified public accountant; and (3) that if a provider succeeds in its appeal through administrative processes with the department through their fair hearing process, that there be reciprocal rights for the provider as there are for the department, meaning that it could impose whatever penalties, including the statutory 10 percent interest on any money that the department held wrongfully for the period defined. Mr. Meyer believes this is an important public policy matter and hopes that the committee will consider a committee bill. **{Tape : 1; Side : B; Approx. Time Counter : 26.2 - 29}**

**Denzel Davis, Administrator, Quality Assurance Division, DPHHS**, said that the seven-year delay in Mr. Meyer's case was not the department's delay but was caused by legal posturing during those years. He explained the background of the case, which began when the division was doing a targeted review of community mental health centers for overpayment issues. This was prior to the shift to mental health managed care. After that shift, they had no ability, if there were overpayments made to any of the providers, to go back and collect. In the case of Western Montana Mental Health Center, there was some money in the pipeline. The term "seized" is used, but under the provisions of the statute, the department is allowed to offset the money against what they think is their overpayment. These cases get fairly complicated. They can't use a statistical sampling unless they have over 500 lines of claims. In some of these large cases, they look at 50,000 to 150,000 records. In cases that big, they go to statistical sampling. If the provider doesn't like the sampling, they can go back to the department and request that they go line by line, and Western Mental Health had that option. If there is not a 10 percent variance, the provider has to pay for the sampling. In the past 10 years, the department has used the statistical sampling 15 times, so it isn't something they use every day. He feels very comfortable with the way it operates. Regarding the withholding of the offsetting, he said the department feels that it is incumbent upon them when they see large



overpayments that they go into the system and tap into the money that's being paid, because they're drawing down money every month. When they find an overpayment, the facility is notified, and they have 30 days to look at it. An administrative hearing is held to share information. The facility then has an opportunity to decide what to do, and if the department doesn't hear from them, they start tapping the money. Mr. Davis believes that the playing field is pretty level right now, and if there is any disadvantage in the system, it is for the department because they don't have enough staff. They are putting into effect a new automated system to help track provider overpayments, which amount to \$3 to \$5 million a year and could even be more. Regarding the credibility of their staff, which had been questioned, he said that they do have CPAs who work in their audit unit and help with these cases. The staff is not incompetent. Regarding the final item, if the department had withheld money and can't prevail, they have to deal with the issue in a lawsuit and the courts will determine interest payments. The question is when the interest payments start. From the department's perspective, they would oppose these amendments to present statute if they come up in a bill. Current language was put in by previous legislation based on the fact that the federal statutes drive us to have this type of program in place, including the offsets and interest. *{Tape : 2; Side : A; Approx. Time Counter : 0 - 11.9}*

**Questions from Committee Members and Responses:**

**Rep. Noennig** discussed with **Mr. Meyer** and **Mr. Davis** the January 10 letter from Mr. James Haynes to Rep. Shockley regarding this case. **Rep. Facey** asked **Mr. Meyer** for examples of specific claims where there were disagreements, and **Mr. Meyer** responded with some examples. **Rep. Facey** asked **Mr. Davis** for specific examples and **Mr. Davis** responded. **Rep. Schmidt** asked **Mr. Davis** why overpayments are made to providers. **Mr. Davis** said they do not make the payments, they review the payments for accuracy. **Rep. Schmidt** asked **Mr. Meyer** why there had been an overpayment in his case, and he responded that there was not an overpayment although there were a few minor error they had made that might have resulted in a couple hundred dollars out of several million dollars in billing. **Rep. Raser** asked if this was an isolated case for his clinic, or have others experienced the same problems, and **Mr. Meyer** said there weren't many people who would put up with this hearing process for so many years. **Mr. Davis** said he thinks this process drives people away from the medicaid program and keeps the medicare provider on track with regard to the amount of money he bills. *{Tape : 2; Side : A; Approx. Time Counter : 12 - 30.6}*

Further discussion was held on pending audit cases, cash flow problems that result for centers when money is "seized," and "leveling the playing field" by requiring that the state pay the

statutory 10 percent interest to the mental health centers on money that is due to them just as the centers are required to pay the interest on the money if they owe it. **Rep. Rice** expressed concern about the attorney fees, and **Mr. Meyer** said they are expensive. Discussion was held on the involvement of CPA's in audit cases, and the differences between a center having a "clean" audit or an audit that revealed documentation problems.

**Chairman Thomas** asked if the committee wanted to vote to request a committee bill at this time. The committee agreed to defer action until Monday. {Tape : 2; Side : B; Approx. Time Counter : 0 - 17.7}

**EXECUTIVE ACTION ON HJ 9**

**Motion/Vote:** REP. DELL moved that HJ 9 DO PASS.

**Motion/Vote:** REP. NOENNIG moved that HJ 9 BE AMENDED by inserting "be requested to" after the word "Congress." Motion carried unanimously.

**Motion/Vote:** REP. NOENNIG moved that HJ 9 BE AMENDED by changing the word "equal" to "equitable." Motion carried unanimously.

**Motion/Vote:** REP. SHOCKLEY moved that HJ 9 DO PASS AS AMENDED. Motion carried 17-1 with Jent voting no. {Tape : 2; Side : B; Approx. Time Counter : 18.5 - 25.4}

**ADJOURNMENT**

Adjournment: 5:20 P.M.

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REP. BILL THOMAS, Chairman

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PATI O'REILLY, Secretary

BT/PO/JB

Jan Brown transcribed these minutes

**EXHIBIT** (huh27aad)